

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MALIBU MEDIA, LLC,

Plaintiff,

v.

DIPAN PATEL,

Defendant.

Case No. 18-13589
Honorable Laurie J. Michelson

ORDER GRANTING RENEWED MOTION FOR ALTERNATE SERVICE [12]

Malibu Media, LLC filed suit against Dipan Patel in November 2018 and has, to date, been unable to effectuate service. It filed multiple motions to extend the time it had to serve. (ECF Nos. 6, 9, 10.) In May 2019, it sought to serve Patel by alternate means, but the Court denied that motion given the relatively short period of time in which service was attempted. (ECF No. 11.) About a month and several more service attempts later, Malibu again seeks permission to serve Patel by alternate means. (ECF No. 12.)

Federal Rule of Civil Procedure 4 states that “[u]nless federal law provides otherwise, an individual . . . may be served in a judicial district of the United States by (1) following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made.” Fed. R. Civ. P. 4(e)(1). Under Michigan law, service on an individual may be made by “(1) delivering a summons and a copy of the complaint to the defendant personally; or (2) sending a summons and a copy of the complaint by registered or certified mail, return receipt requested, and delivery restricted to the addressee.” Mich. Ct. R. 2.105(A). The rule provides further that “[o]n a showing that service of process cannot be reasonably made as provided by this rule, the court may by order permit service of process to be

made in any other manner reasonably calculated to give the defendant actual notice of the proceedings and an opportunity to be heard.” Mich. Ct. R. 2.105(I)(1).

Malibu’s process server made seven separate attempts to personally serve Patel at his last known address—three more attempts than the last time it sought permission for alternate service. (ECF No. 12-1, PageID.115–116.) The attempts were made on April 24, 27, 29, May 2 and June 5, 6, and 7, at different times of the day. (*Id.*) On the first attempt, the process server noted that the mailbox was labelled “Patel.” (*Id.*) During the June 5 attempt, the process server noted two vehicles in the driveway and garage and that the lights were on, but no one answered the door. (*Id.*) On June 6, the same cars were in the garage and driveway and the process server “hear[d] adults talking inside the home,” but still no one answered the door. (*Id.*)

Malibu requests leave to effect service by delivering the summons and complaint via posting at Patel’s last known address as well as mailing copies by registered or certified mail, return receipt requested and delivery restricted to the addressee at the last known address. (ECF No. 12, PageID.113.) The evidence indicates that Patel is evading service. The Court finds that service of process cannot be reasonably made as provided by Michigan Court Rule 2.105, and that the method proposed by Malibu is reasonably calculated to give Patel actual notice of the proceedings and an opportunity to be heard.

Therefore, IT IS HEREBY ORDERED that Malibu’s renewed motion for alternate service (ECF No. 12) is GRANTED. Malibu has 21 days to serve the summons and complaint on Patel by (1) posting a copy of those documents on the front door of Patel’s last known address, (2) mailing a copy of the documents by registered or certified mail, return receipt requested, and delivery restricted to Patel at the last known address; and (3) if possible, sending electronic communications to Patel notifying him of the service of the summons and complaint by the above means in this

action pending in the Eastern District of Michigan under docket number 18-13589, via any text messaging or electronic mail address which the plaintiff may be informed that the defendant uses.

Malibu shall file a certificate confirming service as provided herein.

IT IS SO ORDERED.

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

Date: June 27, 2019

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served on the attorneys and/or parties of record by electronic means or U.S. Mail on June 27, 2019.

s/William Barkholz
Case Manager to
Honorable Laurie J. Michelson